

IN THE MATTER OF	*	BEFORE THE DIRECTOR OF
ELEANORA AND DANIEL	*	DEPARTMENT OF PLANNING & ZONING
WICKENHEISER	*	CASE NO. AA-21-012
PETITIONER	*	5816 FOREST HILL ROAD

DECISION AND ORDER

On January 26, 2022, the Designee for the Director of the Department of Planning and Zoning conducted a public hearing to consider the petition of Eleanora and Daniel Wickenheiser, for Administrative Adjustments from Section 108.0.D.4.b.(1)(a)(ii) and Section 108.0.D.4.c.(1)(c)(i) of the Zoning Regulations to reduce the required 50-foot front setback from a public street right-of-way to 45 feet and to reduce the required 30-foot rear setback to 26 feet for the construction of a 576 square foot attached garage, as authorized under the Administrative Adjustment Procedure, Section 100.0.F.1. The notice of the hearing was posted on the subject property in accordance with all applicable regulations. Eleanora and Daniel Wickenheiser represented themselves as the Petitioner. No one testified in opposition to the petition.

Prior to the introduction of testimony, the following items were incorporated into the record by reference:

- 1. The Howard County Zoning Regulations.
- 2. The Subdivision and Land Development Regulations.
- 3. The Administrative Procedures Act of the Howard County Code.

During the hearing, the following items were introduced as exhibits:

- 1. Administrative Adjustment Petition and Plans submitted by the Petitioner.
- 2. All supplemental information and justification submitted with the application for Alternative Compliance.

Ms. Wickenheiser stated that the purpose of the Administrative Adjustment is to reduce the 50-foot front setback to 45 feet and reduce the 30-foot rear setback to 26 feet for an attached garage. Mr. Wickenheiser asserted that the narrowness, shape and significant slope on the Property limited viable locations for the garage. Also, a location further to the rear would lead to an unsafe extension of the driveway and would infringe more into the rear and side setbacks.

Mr. Wickenheiser testified that the proposed style and design of the garage is compatible with the architecture of the surrounding neighborhood and will not alter the essential character of the neighborhood. The irregular lot shape and the house orientation also contribute to the constraints on the location of the proposed attached garage. He stated further that these constraints on the garage location were not created by himself (the owner). Mr. Wickenheiser asserted that this request is the minimum relief necessary to construct an attached garage that is compatible with the nature of the surrounding neighborhood and further that the proposed location of the garage is the best possible location. Based upon the testimony and exhibits presented at the hearing, and the plans and materials submitted by the Petitioner as part of the petition, the Director makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. The Petitioners, Eleanora and Daniel Wickenheiser, are the owners of the subject property, which is located on the south side of Forest Hill Road, approximately 150 feet southeast of Timberview Drive. The subject property is identified as Tax Map 37, Parcel 424 and addressed as 5816 Forest Hill Road (the "Property"). The Property is 16,794 square feet acre zoned R-20.
2. The lot was created in 1958 with the recordation of the Section Two Timberview plat (PB-6 Folio-63).
3. The Petitioner proposes to construct a 576 square foot garage attached via an eight (8) foot breezeway. The proposed structure will encroach five (5) feet into the required 50-foot side setback and four (4) feet into the required 30-foot rear setback.
4. The Property has an irregular shape due to a curve in Forest Hill Road and is constrained by the orientation of the house and sloping topography that descends from an elevation of 250 feet along the front lot line to 236 feet in the rear corner.
5. All adjoining properties are zoned R-20 and contain single family dwellings.

CONCLUSIONS OF LAW

Based upon the foregoing Findings of Fact, the Director makes the following Conclusions of Law:

1. The 16,794 square foot irregular shaped lot is substandard to the 20,000 square foot minimum lot size required in the R-20 zoning district. While not technically a corner lot, the curve in Forest Hill Road results in a 50-foot setback on two sides of the Property. Additionally, the Property is constrained by the orientation/location of the house and sloping topography in the rear yard. These unique physical conditions result in practical difficulties in complying with the required 50-foot front setback from a public street right-of-way and the 30-foot rear setback.
2. Several houses on Forest Hill Road have attached garages and the garage will be 26 feet from the closest property, due to the orientation of the house. The setback encroachments are unlikely to be discernible from adjacent properties. Therefore, the encroachment is unlikely to alter the essential character of the area, impair the use or development of the adjacent property, or be detrimental to the public welfare.
3. The practical difficulties resulting from the unique lot shape, house orientation and existing topography were not created by the Petitioners, who purchased the Property in 1992.
4. The irregular lot shape, orientation of the house, and existing topography result in practical difficulties in complying with the required setbacks. The Property does not currently have off-street parking and the requests are the minimum necessary to permit an attached garage, which is common in the neighborhood. The encroachments are less than the 20% authorized through an Administrative Adjustment and are 10% into the 50-foot front setback from a public street right-of-way and 13% into the 30-foot rear setback. Therefore, the adjustment is the minimum necessary to afford relief within the intent and purpose of the zoning regulations.

ORDER

Based upon the foregoing Findings of Fact and Conclusions of Law, it is this 23rd day of February, 2022 by the Director of the Department of Planning and Zoning for Howard County, ORDERED that the petition of Eleanora and Daniel Wickenheiser for Administrative Adjustments to reduce the 50-foot front setback from a

public street right-of-way to 45 feet and to reduce the 30-foot rear setback to 26 feet for the construction of an attached garage, be and the same is hereby **GRANTED**.

DocuSigned by:

Amy Gowan

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Amy Gowan, Director
Department of Planning and Zoning

Prepared By:
The Howard County Department of
Planning and Zoning

DocuSigned by:

Justin Tyler

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Justin Tyler, Director's Designee
Department of Planning and Zoning

Notice: A person aggrieved by this decision may appeal it to the Howard County Hearing Authority within 30 days of the issuance of the decision. An appeal must be submitted to the Department of Planning and Zoning on a form provided by the Department. At the time, the appeal petition is filed, the person filing the appeal must pay the appeal fees in accordance with the current schedule of fees. The appeal will be heard *de novo* by the Hearing Authority. The person filing the appeal will bear the expense of providing notice and advertising the hearing.